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**EXHIBIT A**

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MEMORANDUM OF UNDERSTANDING

BETWEEN THE

UTAH DIVISION OF OIL, GAS AND MINING

AND THE

USDA FOREST SERVICE, REGION 4

AND THE

USDI BUREAU OF LAND MANAGEMENT, STATE OF UTAH

CONCERNING REGULATION OF MINERALS MINING AND RECLAMATION

THIS MEMORANDUM OF UNDERSTANDING, hereinafter referred to as the MOU, is entered into between the Utah Division of Oil, Gas and Mining, hereinafter called the DOGM; the USDA Forest Service, Intermountain Region, hereinafter called the USFS; and the USDI Bureau of Land Management, hereinafter called the BLM.

A. PURPOSE

The intent of this MOU is to establish and improve locatable minerals administration between DOGM, USFS, and BLM on USFS and BLM administered lands. This will be accomplished through more efficient use of agency resources and through reduction of duplicative and burdensome regulations on the mining public.

**B. AUTHORIZATION**

1. DOGM is authorized to regulate minerals activities in accordance with:
  - a. Utah Mined Land Reclamation Act, Section 40-8-1, et. seq., Utah Code Annotated, (1953, as amended), and
  - b. Utah Administrative Code, R613-001 thru R613-005.
2. USFS administers proposals for locatable mineral operations under the 36 CFR 228, Subpart A regulations.
3. BLM is authorized under acts of Congress, the 43 CFR 3802 and the 43 CFR 3809 regulations.

**C. REQUIREMENTS FOR MOU**

The Director, DOGM; the Regional Forester, USFS; and the Utah State Director, BLM, affirm that they will comply with all of the provisions of this MOU and will continue to meet all of the conditions and requirements specified in this document. Nothing in this MOU should be construed as allowing abrogation of the authority of DOGM, USFS, and BLM.

To the extent authorized and practicable, all provisions of this MOU will be conducted with consideration for (1) multiple use and sustained yield of resources and environmental integrity, protection and enhancement; (2) all program activities of the agencies involved; and (3) consistency with State, local and Federal land use plans and zoning ordinances, so long as the rights granted under the mining laws are preserved.

D. DEFINITIONS

1. Authorized- Officer - DOGM, USFS, or BLM employee having the Line Authority to review and accept a Notice of Intent or approve a Plan of Operations.
2. Bureau of Land Management Lands - Land areas administered by the BLM.
3. Compliance Enforcement - Activities which pursue administrative and legal remedies for violations of provisions of accepted notices or approved plans and bond forfeiture in accordance with an agency's applicable laws and regulations.
4. Cooperating Agency - That agency which cooperates with and assists the lead agency.
5. Exploration and Mining Operations - Those mineral related activities requiring a Plan or Notice within the jurisdiction of DOGM, USFS, and BLM, and in accordance with DOGM statute and rules, UCA 40-8-1 et seq., UAC R613-100 thru R613-005, USFS regulations 36 CFR 228.3(a), and BLM regulations 43 CFR 3802 and 43 CFR 3809.

6. Land Affected - Surface and subsurface of an area within the state where mining operations are being or will be conducted, including, but not limited to: (a) land excavations; (b) exploration sites; (c) drill sites or workings; (d) refuse banks or spoil piles; (e) evaporation or settling ponds; (f) stockpiles; (g) leaching dumps; (h) placer areas; (i) tailings ponds or dumps; (j) work, parking, storage, or waste discharge areas, structures, and facilities.
7. Land Managing Agency - The agency responsible for the management of that surface land. For the purposes of this agreement, the Forest Service and BLM are the "land managing agency" on those lands each administers.
8. Large Mining Operations (LMO) - Mining operations which have a disturbed area of more than five surface acres at any time. For BLM or USFS, this will require the filing of a Plan. For DOGM this will require filing a Notice of Large Mining Operation, or equivalent Plan.
9. Lead Agency - That agency which accepts lead responsibility for management of a Notice of Intent or Plan of Operations.
10. Locatable Minerals - All "valuable mineral deposits" are locatable under the General Mining Law of 1872, except those specifically excluded by the Leasable and Salable mineral acts.

11. Mineral Related Activities - Activities conducted by an operator, relating to the exploration, and/or development of locatable minerals, and the reclamation of surface disturbance caused by such exploration and development.
12. National Forest System Lands - Land areas administered by the U.S. Forest Service.
13. Notice of Intent (Notice - BLM/USFS)/(SMO or LMO - DOGM) or Plan of Operation (Plan) - Formal notification that requires review and acceptance or approval (as indicated below) to conduct operations, including reclamation on Federal lands.  
  
USFS/BLM/DOGM SMO Notice: requires acknowledgement but does not require a reclamation surety.  
  
USFS/BLM Plan/DOGM LMO Notice: requires approval by the authorized officer. A reclamation surety is usually required.
14. Off-site Activities - All mining related activities including access from private ways, roads and railroads that are conducted outside the boundaries of the area defined as "land affected" by a mining operation.
15. Reclamation - Procedures and standards that will be conducted, where applicable, in accordance with UCA 40-8-1 et seq., UAC R613-100 thru R613-005, 36 CFR 228.8 (g), 43 CFR 3802.3-2(h) and 43 CFR 3809.1-1.

16. Small Mining Operations (SMO) - Mining operations which have a disturbed area of five or less surface acres at any time. For BLM, this will usually require the filing of a Notice. For USFS, this may require filing of a Notice or Plan. For DOGM, this will require filing a Notice of Small Mining Operation, or equivalent Notice or Plan.

E. LEAD AGENCY

1. For operations on National Forest System lands, USFS will be the lead agency, and its Authorized Officer will be the lead agent.
2. For operations on Bureau of Land Management lands, BLM will be the lead agency, and its Authorized Officer will be the lead agent.
3. For operations on state trust lands, fee lands, other state-owned lands, and federal minerals within Stockraising Homestead lands, DOGM will be the lead agency and its Authorized Officer will be the lead agent.
4. Where the agency with surface management jurisdiction agrees, DOGM may act as lead agent, irrespective of parts 1 or 2, above.

**F. NOTICES AND PLANS**

1. The lead agency will:
  - a. Upon receipt of a BLM Notice or Plan, or a Forest Service Plan, submit copies to the cooperating agency. The time frame for agency review of the Notice or Plan and response to the operator, will begin upon receipt of the Notice or Plan by the lead agency. All responses to the operator will be coordinated through the lead agency.
  - b. Upon receipt of and prior to approval of, the Plan/LMO, or any revision thereof, give due consideration to timely comments from the cooperating agency. The lead agency will proceed independently in processing the Plan/LMO, if the cooperating agency cannot provide comments within 30 days of the lead agency's receipt of the plan. Under extenuating circumstances, the cooperating agency may be granted an additional 20 days for comment. If the cooperating agency cannot meet this schedule, the lead agency will proceed independently in processing the plan.
  - c. Not allow mining operations to commence, under a Plan/LMO, until the reclamation surety is received and approved by the lead and cooperating agencies.



- d. When there is disagreement between cooperating agency and lead agency, take the lead in conducting whatever meetings or negotiations are necessary to resolve the problems, including raising the problem to the directors of the agencies for resolution, if necessary. These negotiations will not restrict an agency from taking actions in accordance with its authority. If agreement cannot be reached between the agencies, the lead agency will notify the operator to work independently with the agencies.
- e. Inspect for compliance with the approved Notice or Plan. This may be done with the cooperating agency.
- f. Promptly notify the cooperating agency of operations not complying with the approved Notice or Plan.
- g. When warranted, inform the cooperating agency of any other pertinent matters regarding the general conduct of the operation.
- h. Coordinate with the cooperating agency on standards of reclamation for compliance with both State and Federal laws, rules, and regulations on mineral related activities.

2. Information received by DOGM, USFS, or BLM specifically marked "confidential" shall remain confidential in accordance with applicable laws and regulations, unless released in writing by the applicant. In the event confidential information is necessary for approval of a Notice by either the lead agency or cooperating agency, the applicant shall comply independently with the requesting agency's laws and regulations.

#### G. COMPLIANCE ENFORCEMENT

1. Each agency shall have the responsibility for enforcement of its applicable regulations, rules, and laws. The lead agency acts as the principal contact when working with the operator. If the cooperating or lead agency recognizes a violation of the approved Notice or Plan, that agency will contact the Authorized Officer or representative of the cooperating or lead agency and inform them of the violation. If the lead agency does not/cannot resolve the problem with the operator, the cooperating agency has the option to resolve the violation.
2. All instances of disputed or stalemated issues shall be referred to the directors of the affected agencies for resolution.
3. None of the agencies are obligated to the other agencies for personnel or expenditures of funds that are not within their appropriation or allotments.

#### H. RECLAMATION SURETY

1. The lead agency in cooperation with the cooperating agency, will have the responsibility to determine the reclamation standards and set the form and amount of surety required for the reclamation work.
2. If the operation is a Large Mining Operation, the form and amount of surety designated by DOGM must be approved by the Utah Board of Oil, Gas and Mining.
3. If the lead agency and cooperating agency cannot agree on the form or amount of surety, the operator shall post additional surety covering the difference with the agency requiring the larger amount.
4. In the event one agency finds it necessary to make a claim against a surety being held by the other, the agency holding the surety agrees to take collection action, to the extent provided by its laws and rules or regulations.
5. If a surety is forfeited or relinquished, the two agencies will coordinate reclamation. It is further agreed that the agency holding the surety will act on behalf of the other agency on any matters concerning the surety, to the extent provided by its laws and rules or regulations.

6. The lead agency will assume the responsibility of receiving and holding the surety, unless otherwise agreed upon by the agencies. If the operator wants to post a surety with the lead agency, and that agency cannot accept it under its laws, rules or regulations, then by mutual agreement between the agencies, the cooperating agency can receive and hold the surety provided that it can do so within its regulatory authority.

It is intended that DOGM will receive and hold the reclamation surety for mining operations on BLM administered land. If the surety amount calculated by the BLM exceeds that required by DOGM, the operator shall post the additional surety amount with the BLM.

7. The agency holding the surety agrees not to release the surety until the reclamation work required by the Notice/Plan has been completed in a manner satisfactory to both agencies, as documented in writing.
8. Reclamation sureties for operations over 5 acres of surface disturbance, will be issued jointly, in the name of the State of Utah, Division of Oil, Gas and Mining, and the respective Federal land managing agency (U.S. Department of the Interior, BLM, and/or U.S. Department of Agriculture, USFS).

#### **I. LIMITATIONS**

This agreement is not intended to waive or otherwise limit any Federal or State laws, rules, or regulations, or any other requirements or duties under such laws, rules, or regulations. All operators shall fully comply with all applicable Federal and State laws, rules, and regulations pertaining to exploration, mining and related reclamation.

#### **J. COORDINATION**

The agencies will promptly inform the other parties to the MOU of any new or possibly heretofore unknown mineral related activities that will involve the lead or cooperating agency(ies). Each agency will promptly inform the other parties to the MOU of any changes in rulemaking and policy.

#### **K. EFFECTIVE DATE**

This MOU shall become effective upon signature by the Director of DOGM, Regional Forester for the Intermountain Region of the Forest Service, and Utah State Director for the BLM, and will remain in force unless formally terminated by any agency after 60 days written notice to the other agencies of its intention to do so.

In the event the agreement is terminated, each agency agrees to maintain the existing sureties until such time as an agreement can be reached between the operator, DOGM, and USFS, or BLM to replace or release the surety.

#### L. AMENDMENTS

Amendments to this agreement may be proposed at any time by any party to the agreement and shall become effective upon written approval by all parties to the agreement.

IN WITNESS WHEREOF, the parties have executed the Memorandum of Understanding in triplicate originals, on this 9th day of September 1989.

*for Robert C. Olsen*  
Regional Forester  
Intermountain Region  
U.S. Forest Service

*Dianne J. Nielsen*  
Director  
Division of Oil, Gas and Mining  
State of Utah

*James M. Parker*  
Director  
Utah State Office  
U.S. Bureau of Land Management  
jb  
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